

ENVIRONMENTAL JUSTICE PLAN

for the

STATE of MICHIGAN

and

DEPARTMENT of NATURAL RESOURCES and ENVIRONMENT

December 17, 2010

The draft Environmental Justice Plan was developed by the Environmental Justice Working Group and the Department of Natural Resources and Environment (DNRE). The members of the working group are listed below.

ENVIRONMENTAL JUSTICE WORKING GROUP MEMBERS AND AFFILIATIONS:

MODERATOR:

Frank Ruswick, Deputy Director, Michigan Department of Natural Resources and Environment

FACILITATORS:

Sara Smith, Performance Consultant, Office of Great Workplace Development

Mark Becker, Performance Consultant, Michigan Department of Transportation

PRESENT MEMBERS:

Rhonda Anderson, Environmental Justice Program Detroit, Sierra Club

Harold Core, Public Information Officer, Michigan Department of Civil Rights

Sylvia Elliott, Managing Attorney, Michigan Department of Civil Rights

Bryce Feighner, Michigan Department of Natural Resources and Environment

Lisa Goldstein, Executive Director, Southwest Detroit Environmental Vision

Sara Gosman, The University of Michigan Law School

Randall Gross, Jr., Director of Environmental and Regulatory Policy, Michigan Manufacturers Association

Chuck Hersey, Environmental Manager, Southeast Michigan Council of Governments

William Hischke, Environmental Specialist, Buildings, Safety Engineering, and Environment Department, City of Detroit

Abed Houssari, Manager, DTE Energy

Carrie Houtman, Public Policy Manager, Dow Chemical Company

Rebecca Humphries, Director, Michigan Department of Natural Resources and Environment

Brian Kandler, Director, Government Relations, Detroit Regional Chamber

Susan Manente, Health Educator/Community Outreach Coordinator, Michigan Department of Community Health

Tom Martin, Director of Policy and Legislative Affairs, Department of Labor and Economic Growth

Sue Maul, Michigan Department of Natural Resources and Environment

Paul Mohai, Professor, School of Natural Resources, University of Michigan

Lori Noblet, Environmental Justice Coordinator, Michigan Department of Transportation

Kathryn Ross, Senior Environmental Planner, Consumers Energy Company

Frank Ruswick, Deputy Director, Michigan Department of Natural Resources and Environment

Raymond Scott, General Manager, Buildings, Safety Engineering, and Environment Department, City of Detroit

Bob Sills, Michigan Department of Natural Resources and Environment

Pamela Smith, Community Health Improvement Director, Saginaw County Department of Public Health

Andy Such, EnviroPolicy Consultants

Brad Van Guilder, Organizer, Ecology Center

Kyle Powys Whyte, Professor, Michigan State University

Donele Wilkins, Executive Director, Detroiters Working for Environmental Justice II

Guy Williams, President and CEO, Detroiters Working for Environmental Justice

PAST MEMBERS:

Corina Andorfer, Staff Attorney, Michigan State Housing Development Authority
Steven Chester, Director, Michigan Department of Environmental Quality
Summer Cohen, Coordinator, Keweenaw Bay Indian Community
Jarod Davis, Public Policy Communications Leader, Dow Chemical Company
Michael Johnston, Director, Regional Affairs, Michigan Manufacturers Association
Sally Kniffen, Environmental Specialist, Saginaw Chippewa Indian Tribe of Michigan
Oladipo Oyinsan, District Supervisor, Michigan Department of Environmental Quality
Matthew Rick, Vice President/General Counsel, Michigan Economic Development Corporation
Corey Calista Ridings, Health Disparities Reduction, Michigan Department of Community Health
Kelvin Scott, Director, Michigan Department of Civil Rights
Patricia Spitzley, Chief, Office of Legal Services, Michigan Department of Natural Resources
Willa Williams, Director, City of Detroit - Department of Environmental Affairs Administration
David Worthams, Legislative Associate, Michigan Municipal League - State Affairs Office

Effect on Private Parties

This plan provides guidance to DNRE staff regarding the implementation and interpretation of laws administered by the DNRE. It further recommends action by other departments of state government. It does not require any action by persons outside of state government and does not have the force and effect of law. Any action by a person outside of state government described in this plan is strictly voluntary on the part of that person.

Department Reorganization

As this document was nearing completion, Governor-elect Rick Snyder announced plans to reconstitute the Department of Natural Resources and Environment into the Department of Environmental Quality (DEQ) and Department of Natural Resources. Based on the original charge of Executive Order 2007-23 to the DEQ, it can be inferred that references throughout this document to DNRE will apply to DEQ once that department is reconstituted.

Executive Summary

BACKGROUND

On November 21, 2007, Governor Jennifer M. Granholm issued Executive Directive No. 2007-23 charging the Department of Environmental Quality (DEQ) with developing and implementing a state environmental justice plan to promote environmental justice in Michigan. Effective January 17, 2010, the DEQ was combined with the Department of Natural Resources (DNR) to form the Department of Natural Resources and Environment (DNRE). This document is intended to satisfy the requirement of this executive directive, both by general guidance and recommendations for all state departments and by providing a specific plan for the DNRE.

As required by the plan, the DEQ established an Environmental Justice Working Group composed of several state agencies, environmental justice advocacy groups, academia, tribal representatives, research professionals, and representatives of economic development and business organizations. Over the course of two years, this working group created a number of subgroups and conducted academic research and public focus group meetings. The working group also established a resource group comprised of interested members of the public to provide assistance in the development of the state plan.

By creating a plan through this more collaborative process, it is hoped that both the implementation of this plan and the continuing results more completely reflect the aspect of fairness that is the essential nature of environmental justice. It is also hoped that the important partnerships created through this process will facilitate more effective and efficient sharing of resources, including both material, human, and information. Such sharing of resources is especially critical since this plan is being released during an unprecedented period of economic contraction.

All too often, environmental justice considerations are framed in negative terms and perceived as potential obstacles to economic growth. Minority and low-income communities, no less than other communities, want vibrant businesses that add to their economic base without harming their individual health and well-being. Accordingly, this environmental justice plan is not designed or intended to run contrary to the larger economic development efforts of the state. Instead, the focus of this plan, and the hope of the working group, is that this plan provides the best avenue for balancing productive economic growth with the high quality of life that is important to all people.

KEY ELEMENTS

The plan is organized into several chapters similar to the work of the subgroups of the Environmental Justice Working Group.

Disparate Impacts

The environmental justice plan, among other things, must include measures to identify, address and prevent discriminatory public health or environmental effects of state laws, regulations, policies and activities on Michigan residents. Discriminatory effects are those that cause disproportionately adverse public health or environmental impacts on minority or low income populations. These adverse impacts are also called “disparate impacts.” The department must first determine the circumstances for when and where disparate impacts potentially occur. The report recommends a methodology for identifying those circumstances.

Integration into DNRE Activities

The DNRE is the state agency principally responsible for administering most federal and state environmental laws in Michigan. As with any state government agency, the DNRE must carry out its responsibilities in compliance with all federal and state laws and agency regulations prohibiting both intentional and unintentional discriminatory actions based on a number of protected categories, including race, color or national origin. The report therefore contains a chapter on how the DNRE will incorporate environmental justice considerations into administrative activities such as public participation, compliance and enforcement activities, and grants or other incentive programs.

The recommendations included in this chapter include: (1) building the capacity of DNRE employees through training and developing tools; (2) creating an operational policy that creates expectations and identifies tasks which must include environmental justice principles; and (3) prioritizing inspections, enforcement, compliance assistance, remediation and other activities which assist in identifying and mitigating disparate impacts.

Public Participation

This plan recognizes that the two “pillars” of environmental justice are the fair treatment of all people and providing for meaningful public involvement in government decision making. Therefore, this plan incorporates comprehensive measures for including the public in decisions related to environmental justice issues. Among those measures are guidance to make public participation efforts meaningful and a toolkit of recommended approaches and tactics to effectively communicate with the public.

Tribal Consultation

“Tribal consultation” is the cornerstone of a fair environmental justice policy toward tribes. Like local units of government, tribal governments are well-positioned to identify environmental justice areas within their communities and to identify the particular issues and concerns associated with these areas. This environmental justice plan provides a mechanism of tribal consultation in accordance with federal and state policies toward tribes.

Inter-agency Cooperation

Environmental justice issues transcend agency boundaries and clearly are not limited to the activities of just the DNRE. Accordingly, the report contains recommendations for cooperating with various federal and state programs that work to address environmental justice concerns.

Based on the research into environmental justice efforts in other states, strong leadership from the Executive Branch remains the most critical component to keeping the issue a priority across agencies. Therefore, the report recommends that an Interdepartmental Working Group (IWG) be established including senior managers from a number of state departments. The group will be responsible for the review and consideration of environmental justice issues identified by the IWG and Governor's Office. The report also recommends that the Governor's Environmental Policy Advisor serve as Chairperson of the IWG.

Role of Local Units of Government

Local governments are well positioned to identify environmental justice areas within the community and particular issues and concerns associated with those areas. Local units of government also have communication mechanisms in place which, when utilized effectively, would allow them to have a transparent and consistent means to share information within their jurisdictions. Accordingly, the plan includes recommendations to local units of government to assist in the identification of environmental justice issues and acting as a liaison between state officials and community members.

TABLE OF CONTENTS

Executive Summary (page iv)

Background

Key Elements

Chapter 1. Overview (page 1)

Purpose

Background

Potential Impacts On Economic Development

Possible Constraints To Implementation

Chapter 2. Disparate Impacts (page 7)

Introduction

EPA Guidance

Environmental Justice Activity Triggers

Chapter 3. Integration Into DNRE Activities (page 10)

Introduction

EPA Guidance

Environmental Justice Considerations in DNRE Activities

Chapter 4. Public Participation (page 14)

Introduction

Current Enhanced Public Outreach

Public Involvement Guidance and “Toolkit”

Chapter 5. Inter-agency Cooperation (page 22)

Introduction

Interdepartmental Working Group

Cooperative Activities

Chapter 6. Tribal Consultation (page 26)

Introduction

Policies

Implementation

Chapter 7. Role of Local Units of Government (page 31)

Introduction

Participation By Local Units Of Government

Conclusion (page 33)

Attachments (page 34)

Chapter 1. Overview

PURPOSE

On November 21, 2007, Governor Jennifer M. Granholm issued Executive Directive No. 2007-23 (See Attachment 1). The executive directive required the Department of Environmental Quality (DEQ) to develop and implement a state environmental justice plan to promote environmental justice in Michigan. Effective January 17, 2010, the DEQ was combined with the Department of Natural Resources (DNR) to form the Department of Natural Resources and Environment (DNRE).

This document is intended to satisfy the requirements of Executive Directive No. 2007-23 and has two key purposes: (1) to provide general guidance and recommendations for all state departments to consider when drafting agency-specific environmental justice plans; and (2) serve as the environmental justice plan for the DNRE.

The term “environmental justice” is defined in Executive Directive No. 2007-23 as follows:
Environmental justice means the fair, non-discriminatory treatment and meaningful involvement of Michigan residents regarding the development, implementation, and enforcement of environmental laws, regulations, and policies by this state.

The two “pillars” of environmental justice, thus, are the fair treatment of all people and providing for meaningful public involvement in government decision-making. Subsequent chapters will discuss these pillars in detail. However, the following summaries are provided here:

Fair, non-discriminatory treatment means that no group of people, including racial, ethnic or low-income populations should bear a disproportionately greater burden resulting from environmental laws, regulations, policies and decision-making. The activities and actions of the DNRE and other state agencies have the potential to significantly impact the health and environmental well-being of all Michigan residents and businesses; particularly individuals living in minority and low-income communities.

Meaningful involvement means that residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health. To be effective, an environmental justice plan must incorporate comprehensive measures for including the public in legal and policy decisions related to environmental issues. Indeed, full public involvement in governmental decision-making is a basic tenet of democracy.

The DNRE has chosen to play a leadership role in environmental justice matters and encourages all state agencies to do the same in their administration of federal and state environmental laws and policies.

BACKGROUND

The Environmental Justice Movement

The environmental justice movement is a union of civil rights activism and environmental advocacy. The birth of the environmental justice movement is most often cited as the 1982 campaign by a predominately African American community to oppose a proposed PCB waste landfill to be located in Warren County, North Carolina. The community was concerned that placement of the landfill was based on race, and that they were being singled out to bear a disproportionate exposure to the hazards associated with the landfill.

Following the Warren County controversy, a number of studies validated the concern that race was a significant factor in locating hazardous waste sites. These included a 1983 General Accounting Office (GAO) study, and a 1987 study by the Commission for Racial Justice of the United Church of Christ. In October 1991, the first People of Color Environmental Leadership Summit was held in Washington D.C. Subsequent to the Summit, in 1992, *The National Law Journal* published an article claiming that the U.S. Environmental Protection Agency (U.S. EPA) inequitably enforced superfund based on race and income considerations.

A significant milestone in the environmental justice movement occurred in 1994 when President Clinton issued Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." This order compelled each federal agency to make environmental justice part of its mission and to address "disproportionately high and adverse human health or environmental effects of its programs, policies; and activities" on minority and low-income populations. To meet this mandate, each federal agency was required to develop an environmental justice strategy.

Under Title VI of the Civil Rights Act of 1964, recipients of federal funds are prohibited from discriminating on the basis of race, color, or national origin. The U.S. EPA's Title VI regulations provide that a "recipient shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex." 40 C.F.R. §7.35(b). State environmental agencies like the DNRE are recipients of substantial federal financial assistance, and therefore must comply with Title VI.

The State of Michigan and the DEQ have been the subject of both litigation and administrative complaints alleging environmental injustices. After the then-DNR issued a permit in 1992 to the Genesee Power Station Unlimited Partnership to operate a wood waste incinerator in Genesee Township, the National Association for the Advancement of Colored People and others filed a lawsuit alleging violations of civil rights and environmental laws. While the state circuit court found that there was not a disparate impact, it found that the DEQ had violated its constitutional duty to protect the health, safety, and welfare of Michigan's citizens, regardless of their race. Further, the court found that there should be a procedure in place that gives adjoining communities a fair opportunity to be notified and heard concerning the siting of pollution facilities near their borders before zoning is granted. The court also directed the DEQ to conduct

a risk assessment. The circuit court's decision, however, was overturned on appeal because the plaintiffs had not pled these claims and the court could not direct the Legislature to act.

A number of years ago, community groups filed several civil rights complaints with the U.S. EPA Office of Environmental Justice about DEQ's permitting activities. These complaints alleged that, at the time, the DEQ was employing discriminatory methods in granting permits in minority communities. A complaint was filed with the U.S. EPA regarding the Genesee Power permit discussed above, but a decision was never issued in the matter. Two other noteworthy permit challenges were lodged with the U.S. EPA. In 1998, the U.S. EPA determined that, contrary to the claims of the petitioners, the Flint-based Select Steel facility did not adversely impact minority residents because the emissions did not pose significant health risks. In 2002, the U.S. EPA concluded that a hazardous waste injection well in Romulus did not cause disparate impacts because the percentage of minorities in the vicinity of the well was less than the state average. However, the U.S. EPA noted that the DEQ did not have an environmental justice program and "strongly" encouraged the DEQ to develop a policy to ensure compliance with Title VI.

The DEQ's first effort to develop an environmental justice program began in 1998 when former DEQ Director Russell Harding convened a workgroup with representatives from the business, academic, and environmental justice communities. The focus of this workgroup was on addressing recent U.S. EPA guidelines on environmental justice in DEQ programs rather than on developing a state-wide plan. The workgroup produced a report dated October 12, 1999, entitled "Environmental Justice Recommendations" (See Attachment 2). The recommendations in this report were never formalized in a policy or plan. Thereafter, several workgroup members declined to participate further, leading to dissolution of the workgroup in 2000. However, this effort sparked interest within the DEQ to improve public outreach procedures. A draft document dated January 24, 2001, entitled "Model Community Outreach Plan," was prepared and relied on by various divisions within the DEQ to make improvements in public outreach and communication (See Attachment 3).

More recently, in May 2005 then-DEQ Director Steven Chester requested that the Environmental Advisory Council (EAC) consider and develop environmental justice principles for the DEQ. In January 2006 the EAC produced a final document entitled "Recommendations for an Environmental Justice Policy for Michigan" (See Attachment 4). Director Chester and Department of Civil Rights Director Linda Parker jointly submitted the EAC recommendations to Governor Granholm on February 17, 2006, and these recommendations became the foundation for the drafting and issuance of Executive Directive No. 2007-23.

Development of the Environmental Justice Plan

The executive directive required the DEQ to establish an environmental justice working group to assist in the development of the state environmental justice plan.

With the assistance of the Department of Civil Rights, the former DEQ convened the first meeting of the Environmental Justice Working Group in July 2008. Membership on the working group included representatives from the business sector, academia, the environmental justice community, tribal community, local government, and various state departments. (A list of the

working group members appears at the beginning of this document.) The working group created a number of subgroups to focus on specific topics essential to the development of an environmental justice plan. These topical areas included: public participation; integration into DEQ activities; disparate impacts; interdepartmental integration; petition process; and, the role of local units of government. The working group also established a resource group comprised of interested members of the public to provide assistance in the development of the state plan (See Attachment 5).

After eighteen months of information gathering, outreach to various organizations and community groups, and discussion within the working group, the working group finalized the December 11, 2009 *Draft Michigan Environmental Justice Plan*. The draft plan was made publicly available on the department Web site and distributed via working group members to their various constituencies.

Comments were received from 45 commenters. A complete listing along with a summary of the comments are available at www.michigan.gov/dnreenvironmentaljustice. There were a number of comments suggesting that the draft plan, if implemented, would adversely effect economic growth in urban areas and slow down the permitting processes. There were particular concerns in this regard about the proposed Petition Process. There were also a number of comments in support of the proposed Petition Process. There were several comments stating that the plan did not adequately address Native American concerns.

On July 29, 2010, DNRE Director Rebecca Humphries appointed Bryce Feighner, Chief of the Office of Pollution Prevention and Compliance Assistance, DNRE as the department's Environmental Justice Coordinator. Director Humphries charged Mr. Feighner with re-drafting the December 11, 2009 *Draft Michigan Environmental Justice Plan* to address the comments received and to prioritize the following environmental justice activities:

1. Develop an environmental justice education program and toolkit for DNRE employees;
2. Cooperate with U.S. EPA and other state departments on programs that address environmental justice;
3. Focus the department's environmental justice efforts initially on the state's core urban centers or other areas where funding is available to support environmental justice activities; and
4. Incorporate environmental justice principles and activities into DNRE strategic plans.

On November 29, 2010, the Environmental Justice Working Group met to review the November 3, 2010 re-drafted *Michigan Environmental Justice Plan* and recommended a number of changes which are documented in the meeting summary. If those changes were made, all working group members present at the November 29, 2010 meeting indicated they would support going forward with the plan or that they would not oppose it.

A proposed final draft of the *Michigan Environmental Justice Plan* was prepared in response to comments at the November 29, 2010 meeting and provided to working group members on December 2, 2010. One minor change was made to the December 2, 2010 draft plan in response to a comment received from a working group member. Further, concluding statements and

administrative fixes were added where necessary in the document. Other than those changes, the plan was finalized in accordance with the December 2, 2010 draft plan.

On December 17, 2010, DNRE Director Humphries issued the final *Environmental Justice Plan for the State of Michigan and Department of Natural Resources and Environment* (Plan).

POTENTIAL IMPACTS ON ECONOMIC DEVELOPMENT

The discussion of environmental justice most often focuses on the adverse health and environmental effects borne by minority and low-income communities. But just as important is what can be done from an environmental and economic standpoint to benefit these communities. Prior to finalizing this Plan, members of the working group hosted several focus group meetings and met with a number of representatives from minority and low-income communities. These individuals stressed over and over again the importance of having clean, safe, and healthy communities and neighborhoods. Far from wanting to drive businesses away, these community leaders emphasized the value of bringing businesses and good paying jobs to their communities. They clearly did not view environmental justice and economic prosperity to be mutually exclusive outcomes.

The working group shares the perspective of these community representatives. All too often, environmental justice considerations are framed in negative terms and perceived as potential obstacles to economic growth, but this need not be the case. Minority and low-income communities, no less than other communities, want vibrant businesses that add to their economic base without harming their individual health and well-being. It is the genuine hope and expectation of the working group that the integration of environmental justice principles into state department activities will have a positive impact on economic development and neighborhood revitalization in minority and low-income communities. For example, positive impacts could result if integration encourages green development in affected communities through economic incentives or other measures, thereby resulting in less pollution. Addressing environmental justice considerations could also improve the quality of life in affected communities encouraging further appropriate economic activities. Incorporating environmental justice principles can be used as a guide for the business community to pursue sustainable economic, social and environmental development – the triple bottom line.

Nevertheless, the working group acknowledges that negative economic impacts could result if the pursuit of environmental justice creates a dual standard for built-out, urban communities. Imposing new regulatory requirements that increase costs and create regulatory uncertainties in environmental justice communities could serve as an obstacle to economic development in those communities. Driving some development away from urban areas could further encourage urban sprawl and create associated unsustainable demand on public infrastructure. Again, care has been taken to assure that the Plan does not result in any additional regulatory mandates for businesses.

POSSIBLE CONSTRAINTS TO IMPLEMENTATION

Current economic conditions may be a constraint on the ability of state departments to implement agency-specific environmental justice plans. The methods, measures, and recommendations identified in this Plan will, to some degree, require resources to implement. However, care has been taken to prioritize activities in this Plan that do not require extensive resources on the part of state agencies and/or have their own funding mechanisms.

In addition, a policy integrating environmental justice principles into agency activities must have acceptance among a wide range of interests affected by those activities. To be effective, then, the principles embodied in this Plan must have general political and public acceptability.

Chapter 2. Disparate Impacts

INTRODUCTION

Executive Directive No. 2007-23 requires the department to develop an environmental justice plan that, among other things, includes measures to identify, address and prevent discriminatory public health or environmental effects of state laws, regulations, policies and activities on Michigan residents. Discriminatory effects are those that cause disproportionately adverse public health or environmental impacts on minority or low income populations. These adverse impacts are also called “disparate impacts”.

To meet these goals, the department must first determine the circumstances for when and where disparate impacts potentially occur. This chapter describes an approach for identifying those circumstances under which the department must consider and apply environmental justice principles to certain of its activities and actions. This approach is intended to provide guidance and assistance to other state departments in developing their own environmental justice plans to address the disparate impacts associated with their activities. Although an appropriate response to many environmental issues, it is acknowledged that the approach offered is not always appropriate for certain areas such as tribal jurisdictions (See Chapter 6 – *Tribal Consultation*). It is also acknowledged that the approach offered is inadequate for more significant issues like global climate change, which must be addressed regionally or globally rather than through specific projects and other routine activities of the department.

U.S. EPA GUIDANCE

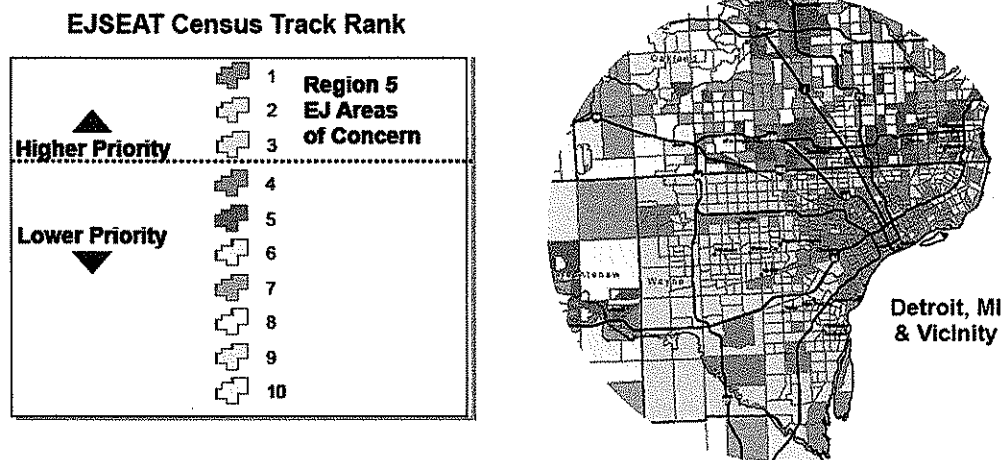
The phrase “disparate impact” and related terms have been the subject of litigation in Title VI and related civil rights cases. Reliance on existing case law, however, has not been helpful for purposes of developing this plan. Legal remedies to mitigate disparate impacts in the context of environmental justice have been largely unsuccessful. Therefore, the plan does not adopt a strict legal definition of “disparate impact,” but rather seeks to identify circumstances that indicate when disparate impacts exist or are likely to occur. These circumstances identified will trigger certain environmental justice activities by the department.

Some federal agencies have developed guidance defining key environmental justice terms and methods for determining if disparate impacts exist or are likely to occur. This is true of the United States Department of Transportation (USDOT). The USDOT has defined such terms as “adverse effects” as well as “disproportionately high and adverse effect on minority and low-income populations.” While these definitions are useful for the USDOT and the Michigan Department of Transportation (MDOT), for purposes of this chapter and its application to DNRE activities, the U.S. EPA guidelines for determining potential disparate impacts are more appropriate.

In determining if a geographic area has a potential for disparate impacts to occur, the U.S. EPA employs the “Environmental Justice Strategic Enforcement Assessment Tool” (EJSEAT). The EJSEAT method is a standard screening approach to identify “potential environmental justice areas of concern.” It is not intended to establish absolute criteria for determining when and

where disparate impacts exist. EJSEAT is used by the U.S. EPA Office of Enforcement and Compliance Assurance to consistently identify areas with potentially disproportionately high and adverse environmental and public health burdens.

EJSEAT uses 18 select federally-recognized or managed databases and a simple algorithm to identify such areas. EJSEAT data sets are divided into the following four indicator categories to calculate EJSEAT priority rankings: (1) environmental; (2) human health; (3) compliance; and (4) social demographics. The various data sets form “layers” used to develop composite maps such as the following for the Detroit area:



The EJSEAT map for the entire state of Michigan is located in Attachment 6.

The EJSEAT environmental data relies heavily on data pertaining to air pollution burdens derived from the National Air Toxics Assessment (NATA). The data and methods used to develop EJSEAT are reviewed periodically by U.S. EPA for the purpose of improving EJSEAT. As a result, EJSEAT will likely change in the future as refinements are made and the department should easily be able to adopt them.

ENVIRONMENTAL JUSTICE ACTIVITY TRIGGERS

As a practical matter, the environmental justice methods, measures and principles identified in this plan cannot be employed for every project and every activity. Therefore, the department must prioritize projects even in geographic areas of potential environmental justice concern by identifying those that are most likely to benefit from environmental justice activities.

For projects that require public outreach, such as major permits, the following approach will be employed to determine if enhanced public outreach activities will be implemented by the department:

- a. when a proposed project or activity is located within one mile of a level 1, 2, or 3 potential environmental justice area of concern as identified by the U.S. EPA's EJSEAT Method;

and

- b. the project is of the type and size such that a public comment period is required. Examples include, but are not limited to:
 1. National Pollutant Discharge Elimination System (NPDES) permits which are classified as major by the Clean Water Act.
 2. Air Permits to Install (PTIs) that require a public comment period. These include permits classified as "major" by the Clean Air Act and permits that include limits which restrict the facility's potential to emit at 90 percent or more of the major source thresholds.
 3. Waste permits for landfills, disposal and recycling facilities that require a public comment period.
 4. Mining permits that require a public comment period.
 5. New Concentrated Animal Feeding Operation permits.
 6. Other projects and activities identified by the department as a potential environmental justice concern.

It is recognized that environmental justice activities should not be limited to projects that involve formal public participation. Chapter 3 - *Integration Into DNRE Activities* addresses how the department plans to integrate activities such as monitoring, inspections, compliance, enforcement, remediation and incentive programs into its overall environmental justice strategy.

Chapter 3. Integration Into DNRE Activities

INTRODUCTION

Under the equal protection clauses of the Constitutions of Michigan and the United States, the DNRE is prohibited from intentionally discriminating against minority residents in its activities. As a recipient of federal financial assistance, the DNRE is also prohibited from discriminating on the grounds of race, color, or national origin under Title VI of the Civil Rights Act of 1964. The U.S. EPA's Title VI regulations provide that a "recipient shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex." 40 C.F.R. §7.35(b). The DNRE would lose federal funding if there is a Title VI violation that is not remedied.

In 1998, the U.S. EPA issued interim guidance for investigating Title VI complaints, which set forth the steps by which the agency would consider Title VI complaints. In 2000, after stakeholders criticized the interim guidance as unclear, the U.S. EPA issued draft revised guidance that explained in more detail each of the steps. The U.S. EPA also issued draft Title VI guidance on environmental permitting programs for funding recipients. This guidance has not been finalized, but does provide suggestions for developing state environmental justice programs. This U.S. EPA guidance will be discussed below in greater detail.

The DNRE is the state agency principally responsible for administering most federal and state environmental laws in Michigan. Understandably, then, the DNRE must ensure that its actions comport with state and federal constitutional law, Title VI and the U.S. EPA anti-discrimination regulations. But legal mandates are not the only reason state agencies should familiarize themselves with environmental justice issues and develop environmental justice programs. As noted elsewhere, actively engaging the public in new and creative ways will result in better communication with and education of the public, and better decision-making by agencies.

This chapter identifies how this environmental justice plan will be implemented by the DNRE with regard to administrative activities such as public participation, compliance and enforcement activities, and grant/other incentive programs. It is further intended to serve as a model for other state departments to consider when addressing environmental justice concerns as part of their departmental activities.

U.S. EPA GUIDANCE

As noted, the U.S. EPA has promulgated anti-discrimination regulations under Title VI prohibiting recipients of federal funding from subjecting individuals from discrimination on the basis of race, color, or national origin. The U.S. EPA has supplemented these regulations with guidance to the states. 65 *Federal Register* 39650 (June 27, 2000). In this draft guidance, the U.S. EPA suggests three ways to incorporate Title VI considerations into state permitting: (1) a comprehensive approach that improves the permitting process overall and incorporates such activities as staff training, adverse impact and demographic analyses, effective public

participation and outreach, intergovernmental involvement, and reducing and/or eliminating adverse disparate impacts; (2) an area-specific approach that encourages stakeholders to develop an agreement to eliminate disparate impacts; and (3) a case-by-case approach that uses general criteria to evaluate permits and follows the U.S. EPA's steps in analyzing complaints.

IMPLEMENTING ENVIRONMENTAL JUSTICE IN DNRE ACTIVITIES

Executive Directive No. 2007-23 requires that environmental justice principles are incorporated into DNRE activities in order to: (1) identify and address discriminatory public health or environmental effects of state laws, regulations, policies, and activities; (2) prevent discriminatory or negative public health or environmental effects of the same actions; and (3) maximize the promotion of environmental justice while minimizing or eliminating adverse or disproportionate social, economic or environment impact.

This plan identifies three general methods for the DNRE to meet, in part, the above-stated goals. Implementing these measures, however, was based on the following assumptions: (1) there are geographic areas and communities in Michigan that have suffered differential environmental impacts that continue to affect the health of the citizens in these communities; (2) Michigan will continue to suffer economically for the foreseeable future which will limit the resources available to the DNRE to fund existing programs, address environmental justice considerations, and create pressure for economic development; and (3) the DNRE staff will be encouraged by the DNRE management to continue to improve their understanding of environmental justice principles and gain the skills and experience necessary to effectively addressing environmental justice considerations.

The three general methods that should be integrated into DNRE activities, to the extent resources are available, are as follows:

1. Build Capacity

The DNRE must build the capacity within the agency for understanding and implementing environmental justice principles. Developing tools and information, training, and creating some level of expertise all serve to build such capacity. With this in mind, the DNRE should:

- Train key staff in each division in environmental justice principles and their application by the DNRE in its activities.
- Develop an Environmental Justice Toolkit for use by all DNRE staff. This toolkit should allow DNRE staff to implement the operational policy described below.
- Identify an environmental justice coordinator within the DNRE who will be responsible for assisting and evaluating the DNRE's environmental justice-related programs and activities. This person should also serve as a point of contact for outside parties with environmental justice-related concerns with DNRE activities.

2. Operationalize the Exercise of Environmental Justice Principles

The DNRE must operationalize the exercise of environmental justice principles so that they become part of the way the DNRE conducts its business. This entails creating expectations and identifying tasks through which DNRE staff start to think and act upon environmental justice principles. The DNRE should:

- Develop a policy guidance document that describes the DNRE's approach to environmental justice and adopts these integration recommendations. For example, the process by which environmental justice activities will be triggered within the DNRE should be specified. This guidance document should be developed with the participation of interested parties and in accordance with other requirements described in DEQ Policy 09-012, Policy Guidance Document Development, Revision, Rescission and Use.
- Make information on environmental justice and the DNRE's environmental justice activities available to interested parties, including the regulated community.
- Post environmental justice-related information on the DNRE Web site.
- Create fact sheets on key regulatory programs for environmental justice communities. These fact sheets should explain, for example, the purposes of the regulatory programs, the nature of appropriate decision-making factors used in the program, and how the public can be involved in the program.
- Due to anticipated higher workloads in Southeast Michigan, create a regional environmental justice outreach team for Southeast Michigan to act as liaison for the DNRE with environmental justice communities and local units of government. Provide similar expertise for other districts through Lansing central staff, with assistance from district staff. Use the DNRE environmental justice coordinator to assist in these efforts.
- Coordinate with other state and federal agencies in assessing and studying public health issues associated with cumulative environmental impacts in minority and low-income communities.

3. Exercise Environmental Justice Principles in Practice

The DNRE must exercise environmental justice principles in practice. This entails specific actions the agency undertakes at a functional level in terms of prevention, compliance and enforcement, remediation (cleanup of contamination), and incentives (grants and recognition programs). In general, the DNRE should consider environmental justice when prioritizing these activities.

As part of the strategic planning process, each DNRE bureau/division/office should develop measurable outcomes demonstrating how this environmental justice plan will be implemented for the respective programs. This may include prioritizing monitoring, inspections, compliance, remediation and incentive program activities in environmental justice communities.

The following activities should be undertaken by the respective DNRE programs where appropriate:

DNRE Review of Projects and Activities

- Ensure that all applicable legal authorities and criteria are appropriately applied to projects and activities to minimize any detrimental public health or environmental effect of the proposed activity on the affected community.
- For projects and activities that require a public comment period within one mile of a level 1, 2, or 3 potential environmental justice area of concern (see Disparate Impacts Chapter), the DNRE should employ enhanced public involvement procedures (see Public Participation Chapter).
- For projects and activities that require a public comment period within one mile of a level 1, 2, or 3 potential environmental justice area of concern, the DNRE should encourage the project applicant to perform early enhanced public involvement procedures and to collaborate with the DNRE and other community groups on this outreach. The DNRE should encourage the project applicant and affected community to identify and discuss other public health and environmental stressors affecting the community. The DNRE should facilitate appropriate meetings or other interactions between the project applicant and affected community.

Compliance, Enforcement and Remediation

- When department resources are limited, prioritize enforcement, monitoring, inspections; compliance, response to complaints and remediation activities within one mile of level 1, 2, and 3 potential environmental justice areas concern (see Disparate Impacts Chapter). As mentioned previously, prioritizing these activities should occur as part of the strategic planning process.

Incentive Programs

- Recognize project applicants who voluntarily undertake actions to address environmental justice community concerns.
- Existing recognition programs, such as *Neighborhood Environmental Partners*, could be expanded to incorporate environmental justice considerations.
- Develop case studies to promote successful examples of environmental justice activities.
- Provide additional consideration to awarding grants, loans, and other incentive programs that will benefit environmental justice areas.
- Additional incentives for brownfield redevelopment should be developed. These new incentives should carry with them a need to address environmental justice considerations in the affected communities.
- Provide environmental justice communities assistance with grant applications.

Chapter 4. Public Participation

INTRODUCTION

Meaningful involvement was one of the two “pillars” of environmental justice described previously. Meaningful involvement means that residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health. The purpose of this chapter is to provide tools and resources so DNRE employees can effectively implement public participation in environmental justice communities.

To facilitate public input an environmental justice plan also must be as flexible and diverse as the public itself. Accordingly, the term “public” is used here in its broadest sense to include anyone who may have an interest in, or be affected by, an environmental program or decision. The term is intended to be inclusive of smaller subpopulations within the larger public, with the clear intent that these smaller groups be provided opportunity for input into policies and decisions.

An anticipated outcome of effective public participation is that state departments will make better, more informed decisions. The tools and techniques selected for engaging the public should be appropriate for the circumstances with the goal of providing decision-makers with data and information that is both useful and relevant to the action, issue or program under consideration. Engaging the public is also an opportunity for the DNRE to educate individuals and communities as to the significance of the proposed action, issue or program. The public participation methods used should include explaining the regulations and other criteria that the DNRE uses to make its decisions. As mentioned previously, the DNRE should encourage companies associated with projects to collaborate with the DNRE on public participation and to perform their own outreach whenever possible. It is equally important for companies to educate communities regarding the importance of a proposed project.

CURRENT ENHANCED PUBLIC OUTREACH

The department has conducted numerous enhanced public outreach activities, most notably by the Air Quality Division (AQD). The AQD recognizes that projects that are large, controversial, or located in minority or low-income communities may benefit from enhanced public outreach procedures. For the purpose of this document, community is defined broadly and includes both tribal and non-tribal residents. Enhanced public participation efforts help to promote collaborative solutions to difficult environmental problems.

For the type of projects identified above, the AQD typically conducts a preliminary public meeting before the formal public hearing begins. The purpose of this meeting is to provide information about the project to the public, to open lines of communication between AQD staff experts and the public, and to offer a question and answer period.

Enhanced public participation utilized presently by the AQD includes one or more of the following additional procedures:

- Placing applications and supporting information on the AQD Web page.
- Providing documents to community groups to translate into appropriate languages.
- Soliciting and receiving comments via e-mail.
- Issuing press releases to remind the public of the meetings and hearings.
- If requested by community members, area churches and community groups are added to interested party mailings.
- Holding a public meeting in the community at which AQD participates as presenters.

Consistent with the additional information presented in this chapter, all DNRE divisions are encouraged to adopt equivalent public outreach measures.

PUBLIC INVOLVEMENT GUIDANCE AND “TOOLKIT”

In 2008/2009, the DEQ/Michigan Department of Agriculture (MDA)/Department of Natural Resources (DNR) Leadership Academy developed a matrix tool (see Attachment 7), based on work done by the International Association for Public Participation (IAP2), to help agency staff select the appropriate public participation techniques to meet their goals for public participation. The matrix tool is too large to include in this document but electronic or hard copy versions of the matrix are available from the DNRE upon request. The matrix tool matches specific public participation techniques to the level of public participation that they wish to achieve. The levels of involvement are (in order of increasing public participation): inform, consult, involve, and collaborate. Figure 1 (modified from the IAP2 document) shows the public participation goals and the promises made to the public for each level of public participation. The matrix tool also compares the public participation techniques to key performance measures.

The matrix tool is provided as guidance only to agency staff as they consider how best to ensure the meaningful involvement and participation by individuals and communities impacted by agency decision-making. Additional guidance and a “toolkit” are provided below to supplement the matrix tool and provide further guidance to departments in responding to environmental justice concerns.

Figure 1: Spectrum of Public Participation

	Inform	Consult	Involve	Collaborate
Public Participation Goal	To provide public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions	To obtain public feedback on analysis, alternatives and/or decisions	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered	To partner with the public in each aspect of the decision including—for projects initiated by the Department—the development of alternatives and the identification of the preferred solution
Promise to the Public	We will keep you informed	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision	For projects initiated by the Department, we will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed. We will provide feedback on how public input influenced the decision	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible

Modified from IAP2 Spectrum of Public Participation (IAP2, 2007)

The Life Cycle of Public Participation:

The public participation process has several equally important steps.

- The issue is identified
- Engage the public
- Conduct public participation events (meetings)
- Consider and manage the comments
- The department makes a decision
- Provide feedback to the public

Engaging the Public - Make Public Participation Meaningful

The 2009/2010 DEQ/DNR Leadership Academy team ("Tools of Engagement" - See Attachments 8 and 9) conducted surveys of department staff and the general public regarding the public participation process. One of the significant findings of the public survey was the fact that a majority of people do not provide comment to the department because they believe their opinions will not make a difference. The purpose of public participation is to inform the public as to the nature and significance of a proposed action (e.g., approving a proposed project or activity, approving a cleanup plan), issue or program, and to allow them the opportunity to express their opinions and concerns regarding that action, issue or program. In turn, it is the understandable expectation of the public that the agency will fairly consider their comments and make adjustments to the proposed action, issue or program, if appropriate. Therefore, making public participation work effectively is very important to achieving the department's goals. The overarching goal therefore is to gain the public's confidence in the process which can best be achieved by eliciting their input in a manner that is truly meaningful and genuine. Below are some suggestions for ensuring meaningful public participation:

- Outreach needs to be ongoing to build relationships and establish trust between residents, community groups, and the agency.
- Outreach needs to empower the people. Communication should be "two-way" in that the agency not only offers an outlet for the public to learn and comment, but offers valuable responses and feedback to the public.
- Outreach needs to occur **early** in the process while the levels of conflict and controversy concerning the proposed action, issue or program are low. Outreach needs to continue throughout the process in order to build the level of trust and minimize the level of conflict. Traditional methods used to inform the public and receive input through formal public comment periods often do not allow adequate time for agencies, regulated parties, and the public to collaborate and develop innovative solutions to difficult environmental problems.
- Methods used to notify the public of meetings and issues need to be tailored to fit the people most affected. For example, if the majority of citizens do not have access to the internet, then the department must find other ways to reach out to these individuals.
- Agencies should avoid employing methods that will have a negative impact on the trust relationship. An example is the traditional formal public hearing format where agency staff makes a long, legalistic opening statement and then take statements from the audience without answering their questions or providing any additional explanation of the agency's decision-making process. If such methods are legally required, they should be supplemented with other public participation techniques that are designed to raise the level of trust (e.g., having an informal informational meeting before the formal public hearing to explain the agency's decision-making process and answer the audience's questions).
- Agency staff must know the legal requirements, where applicable, for providing notification and seeking input from the public. Different programs have different requirements.

- Departments should take advantage of the diversity of the agency staff. Utilize qualified staff when communicating with the public to make residents feel more comfortable and help establish trust.
- Departments should collaborate with local units of government, faith-based organizations, community activists and other locally influential parties to develop and execute an effective communication strategy.
- Developing a citizen engagement plan is also recommended prior to setting up meetings or conducting outreach activities. As included in the 2009/2010 report on “Tools of Engagement” (Attachment 8), a citizen engagement plan, addresses the following items:
 - Define the issue
 - Identify the purpose of engagement
 - Identify the tools needed for engagement
 - Identify potential participants
 - Develop a recruitment and retention plan for participants
 - Create a positive environment
 - Identify evaluation criteria, such as measures of success
 - Maintain lines of communication
- Creating a comprehensive plan ahead of time will help to ensure that the goals are met, the right audience was reached, evaluate the measures of success, and will help ensure that the lines of communication are kept open.
- There needs to be a strong sense of accountability within the agency regarding its own policy and implementation strategies.
- It is critical to the trust relationship that agency staff “close the loop” by conveying the agency’s decision and the reasons it made its decision to the people who provided comments on the proposed action, issue or program.

Educate Department Staff on Environmental Justice and Effective Outreach

State agencies often are staffed by individuals trained in the sciences, engineering, or law. It is common for departments to develop a language or lingo particular to that agency, and agency staff frequently uses acronyms and technical terms unfamiliar to the public. This is true of the DNRE. The following suggestions are intended to improve communication with the public on environmental justice issues:

- Effective two-way communication involves determining who the influential leaders (formal and/or informal) are within the community, establishing a trust relationship with those leaders, and collaborating with them in developing an effective communication strategy.
- Training topics for agency staff should include environmental justice, effective relationship building, collaborative negotiation techniques, and strengthening local cultural awareness. The training could be provided by the U.S. EPA or other federal and state entities.
- Agency staff need to know:
 - *Who* is affected by the agency decision and *where* they are located.

- *What* type of information needs to be provided to the public.
- *How* can that information be provided in the most effective and efficient way. As a general matter, agencies should avoid overly technical presentations and do their best to present information in terms the public can understand.

Review and Rely on the Public Outreach Toolkit

Outreach to affected individuals and communities should be conducted in a manner that allows state departments to efficiently and effectively communicate with the public. Agencies can utilize a number of different mechanisms to determine which information disseminating technique or “tool” is appropriate for the circumstances. Below is a **Toolkit** of options for agencies to choose from:

- Telephone “hotline” access during business hours to relevant parties
- Factsheets
- Frequently Asked Questions (FAQs) and responses
- Public notices
- Community newsletters
- Newspaper postings
- Mailing lists (email or hard copy)
- Providing documents in “plain English” and/or appropriate languages for the community
- Direct contact/meetings with community groups and leaders
- Agency contact list for the public on various issues
- Soliciting and receiving comments via e-mail
- Issuing press releases to remind the public of meetings or hearings
- Attendance lists at meetings/hearings (which must be voluntary to comply with the Open Meetings Act)
- Repositories of historical records and policy documents related to environmental justice issues
- Community technology centers (described below)
- Community meetings/public hearings
- Webcasts of community meetings/public hearings
- On-line forums for stakeholders and residents to voice their concerns
- Conducting collaborative meetings in the community at which environmental groups, local activists, regulated entities, and the agency participate as presenters
- Focus groups
- Environmental justice advisory committee comprised of key stakeholders:
 - Should consist of private sector businesses, community groups, government, and other interested parties
 - Ask to gather public input from their constituents
- Posting site-specific information on-line
- Conducting follow-up surveys of public participants

Enhance Electronic Access to Encourage Public Participation

The Internet and the broad availability of computers provide another avenue for effective communication and engagement of members of the public who have access to the Internet. As funds are available, departments should consider taking the following actions:

- Increase electronic access to build public participation by first establishing a user-friendly environmental justice website that is clear and simple to navigate and read.
- On the agency website post public notices, environmental justice policy, public permit information, and other documents for public review in plain language and translated into another language if necessary.
- On the agency website, create a way that the public can comment on issues on-line.
- Use any combination of the tools from the “toolkit” to encourage online participation and communication.
- Connect community groups to all aspects of state agencies including computer-based research, internet research, risk assessment, and on-line training programs that will enable community residents to become aware of important agency functions such as inspection programs, enforcement activities, monitoring results, grant opportunities, etc.

However, it is important to remember that many people, especially people who may be affected by environmental justice issues, do not have Internet access or are not comfortable with using computers and other electronic devices. Therefore, it is vital to collaborate with influential local leaders and use other means of communication to reach all potentially affected members of the public.

Identify Community Leaders and Host Community Meetings

One of the easiest ways to gain the trust of local residents and to effectively communicate with them is through the people they trust and respect. Another way to gain trust is to work with local leaders to host meetings in the affected community. Accordingly, departments should take the following steps to improve communication with the public:

- Identify local leaders and establish relationships with them. Local leaders may be from religious, environmental justice advocacy, medical, educational, or any other institution that serves the community on a regular basis. This may include working with individuals who do not have formal leadership roles but who are influential in the community. Working with these groups or individuals will not only establish trust within the community, but will grant insight into the community’s needs and concerns, putting the agencies in a better position to address those needs.
- When requested by a member of the public, or when a site or project is of heightened interest and importance, a community meeting should be held for the purposes of disseminating information, documenting community concerns, and engaging public discussion. This should be done as early in the process as possible.
- Community meetings should be organized in a manner that is accessible to the public. Meetings should be conducted in the community at a time of day that accommodates the local citizens.

- Language translators and reasonable accommodations for persons with disabilities should be considered as part of the planning of community meetings and all facilities should be fully accessible.

Cooperate with Other Departments and Entities

Successful public outreach may be best achievable through inter-agency partnerships and/or cooperation with other entities such as local units of government, academic institutions or public interest organizations. Departments should consult other state agencies and, as appropriate, local governments, universities, and organizations to see how they can work together to achieve the same goals. Collaboration will be useful in areas that involve some type of study or information gathering (*e.g.* Geographic Information Systems (GIS) usage in identifying environmental justice areas, translation of documents).

Providing feedback to the public:

Encouraging the public to participate and provide input to decisions is very important. It is equally important for the agency to communicate the results of decisions back to the public in a timely and coherent manner. When providing feedback, consider the following:

- Know your audience, provide information in plain English, or possibly translated into the common local language if necessary.
- In large or controversial situations, consider developing a “response to comment” document which describes the comments and the departments answers.
- Consider developing a “responsiveness summary” of the issues and provide to the public.
- Consider posting information on the decision on the website and making it available through other means of communication.
- Develop a listserv for large groups of interested parties to quickly provide information.
- Share the information with the local community leaders as soon as possible.
- Take the time to talk to individuals to answer questions and provide information; this will help build trust and keep the communication lines open.

In summary, it is hoped that by applying the tools and techniques described in this chapter, meaningful public involvement will be achieved and decision-makers will be better informed regarding the potential environmental and/or public health impacts of proposed activities.

Chapter 5. Inter-agency Cooperation

INTRODUCTION

Environmental justice issues transcend departmental boundaries and clearly are not limited to the activities of just the DNRE. This point is acknowledged by Executive Directive No. 2007-23 that requires the state environmental justice plan include measures to integrate and coordinate the actions of the various state departments on environmental justice matters. Accordingly, a means is needed to identify the environmental justice related impacts of projects from the perspective of various state agencies to ensure that these impacts are addressed in a coordinated manner.

Other states that have attempted to address the issue of interdepartmental coordination have most commonly established interdepartmental work groups, but success has been mixed. For example, an interdepartmental work group is a part of California's environmental justice program, but the group meets rarely. California appears to place more emphasis on individual leadership, meaningful public participation, and sponsorship of pilot environmental justice projects. New Jersey also had an interdepartmental work group, but it was recently abolished. The New Jersey experience demonstrated that clear direction and leadership from the Governor's Office is imperative for such an interdepartmental work group to succeed.

INTERDEPARTMENTAL WORKING GROUP

From the experiences in other states, several things can be learned. First, strong leadership from the Executive Branch is required to assure that work group members treat environmental justice as a high priority. Second, senior level department managers must be actively engaged in the group's work. Finally, highly committed individual leadership is essential.

With these lessons in mind, an Interdepartmental Work Group (IWG) should be established via a Memorandum of Understanding. The following departments should be represented on the IWG: the DNRE, the Department of Civil Rights (DCR), the Department of Community Health (DCH), the Department of Transportation (MDOT), the Michigan Economic Development Corporation (MEDC), the Michigan State Housing Development Authority (MSHDA), the Department of Agriculture (MDA), and the Department of Energy, Labor and Economic Growth (DELEG). These department representatives should be members of the department's senior management team. The Chair of the IWG should be the Governor's Environmental Policy Advisor.

The IWG should be responsible for the review and consideration of environmental justice issues that have been brought to the attention of IWG members or the Governor's Office. The Environmental Justice Working Group considered recommending a petition process, but in the end did not agree on this or another mechanism for "members of the public, communities, and groups to assert adverse or disproportionate social, economic or environmental impact upon a community and request responsive state action" (Executive Directive 2007-23). Therefore, the IWG should consider developing their own mechanism for receiving input from members of the public, communities, local governments, tribes, and others not represented on the IWG who wish

to request a response from the state regarding environmental justice concerns. Those states with environmental justice programs have typically chosen one of three approaches for reviewing and responding to environmental justice concerns. These three mechanisms include establishing a grievance procedure, designating a high-level environmental justice advocate, or creating a petition process.

In considering issues to address, the IWG should place particular emphasis on those issues that transcend departmental jurisdictions. In addition, other duties of the IWG should include:

- 1) identifying state departments that could benefit from the development of an environmental justice plan;
- 2) assisting those departments in the development of such a plan consistent with the goals and objectives of this plan;
- 3) recommending performance goals and measures for state departments with environmental justice plans;
- 4) interacting with tribal governments regarding environmental justice issues with tribal implications;
- 5) reviewing the progress of state departments in complying with environmental justice plans and promoting environmental justice; and
- 6) recommending measures to further promote environmental justice in this state.

The IWG should establish an environmental justice advisory council to advise the IWG on the exercise and fulfillment of its responsibilities and duties under this Plan. This council should include representation from environmental justice groups, academia, local and tribal governments, business, and other interested organizations and associations. The environmental justice advisory council would provide independent advice and recommendations to the IWG including strategic, scientific, technological, regulatory and economic issues related to environmental justice.

COOPERATIVE ACTIVITIES

No environmental justice plan will be effective unless there is adequate funding to support the proposed activities. Hence, it is important for the DNRE to identify programs and funding sources with which to cooperate that have environmental justice benefits. The IWG can be a focal point for coordinating these activities. Toward these ends, the DNRE has already engaged in cooperating with the following agencies and programs:

NSP2 – Neighborhood Stabilization Program 2

Michigan recently received approximately \$224 million in federal funding for 93 census tracts in 12 major cities (Detroit, Highland Park, Hamtramck, Wyandotte, Flint, Saginaw, Pontiac, Lansing, Battle Creek, Kalamazoo, Grand Rapids, and Benton Harbor). Most of these areas are high priority potential environmental justice areas of concern according to EJSEAT. MSHDA is the lead state agency; however, this is a collaborative effort which includes DNRE, MEDC and cities and counties. The purpose of the NSP2 program is to redevelop our core urban centers to create places desirable to live, work and play. Development will be conducted with environmental justice principles in mind.

CARE (Community Action for Renewed Environment) I and II

This is a cooperative effort with EPA, Southwest Detroit Environmental Vision (SDEV), DNRE and other community partners to identify environmental and public health priorities and to implement changes in an area of the state that EJSEAT recognizes as a Level 1 potential environmental justice area of concern. The DNRE supported both of the associated EPA grants to SDEV and has provided staff to assist with environmental evaluations. DNRE's Office of Pollution Prevention and Compliance Assistance (OPPCA) will provide training for targeted businesses in the area on how to reduce their environmental impact.

Greater Grand Rapids Children's Environmental Health Initiative

Many of the greatest environmental exposures come from within our own homes and these exposures tend to have a greater impact on children. These exposures also tend to be greatest in high priority potential environmental justice areas of concern. For example, nine out of ten children with lead poisoning in Kent County have lead-based paint and residual lead dust in the home environment identified as the primary source of their poisoning. 233 children under age 6 in Kent County have blood lead levels that are high enough to impair their health. Nearly 15,000 of Kent County's children suffer from asthma, made worse by irritants in their own homes. More than 10,000 of the state's infants are at risk for impaired development due to mercury exposure.

In recognition of these facts, the DNRE has been cooperating with the Greater Grand Rapids Children's Environmental Health Initiative which was awarded \$411,000 in funding to protect children's health from in-home toxicants and pollutants that affect their well-being and development. The EPA and U.S. Center for Disease Control recognize this initiative as a national model. The project educates the community and families about environmental hazards in residences, such as lead dust from old lead paint used in older homes, radon gas, and environmental air pollutants that trigger asthma.

E3 – Environment, Energy, Economy

Between 2004 and 2006, the DNRE and the EPA leveraged \$142,257 in grant funds to provide local support to focus on measured environmental performance improvements for participating suppliers. Realized environmental cost savings from the Green Suppliers Network Program in 2009 resulted in nearly \$62,000 in annual savings to suppliers and a 20-percent reduction in chemical use, 16 million gallons of process water reduced, and 131,300 Kwh of electric energy reduced. This past August, the DNRE received a grant from the EPA's 2010 Pollution Prevention Grant Program in the amount of \$276,594 to support the E3 Sustainable Supply Chain Alliance Project in Southeast Michigan. The grant will help develop measureable outcomes for E3 improvements in some of our urban areas, including Detroit. One purpose is to demonstrate that being good stewards of the environment will also result in cost savings to businesses.

Michigan Clean Diesel Programs

Diesel engine emissions can contribute to health problems such as cardiovascular disease, respiratory illnesses such as asthma, and cancer. Children are particularly vulnerable to the effects of diesel exhaust, in part, due to the increased exposure from school buses. The purpose of these programs is to reduce the overall level of pollutants from diesel engines that negatively

impact human health and the environment. One way the DNRE accomplishes this purpose is by issuing grants to retrofit diesel engines with emission controls. Partners in these grant programs have included EPA, SDEV, and Marathon Petroleum Company (Marathon). Marathon contributed financial support to retrofit Detroit city school buses. The DNRE will soon be issuing another \$1 million in these grants which is targeted at a number of high priority potential environmental justice areas of concern.

Mercury Reduction Grant

Mercury deposition in our Great Lakes is a concern because it is a persistent, bio-accumulative toxin. It is a particular concern to Native American communities and others who depend on subsistence fishing. To address these concerns, the DNRE applied for and recently received a Great Lakes Restoration Initiative grant in the amount of \$856,000.00 for implementing mercury reduction strategies in Michigan. The activities funded will assist Michigan companies, municipalities and residents in adopting enhanced pollution prevention (P2) technologies and practices, provide technical assistance, increase mercury awareness for various sectors, and create sustainable programs that will facilitate the understanding of the hazards associated with mercury. Implementation of these activities will reduce mercury pollution, related public and wildlife health risks, and protect the water quality and fisheries of the Great Lakes Basin. The DNRE will partner with other agencies and contractors to provide P2 and compliance technical assistance, education and outreach, as well as financial support to accomplish mercury reductions. Those partners include the MDCH, MDA, Michigan Dental Association, and the Interstate Mercury Education and Reduction Clearinghouse.

Climate Action Planning Grants

While climate change is a global concern, it will tend to have greater impacts on tribal and other environmental justice communities. The DNRE recently awarded \$246,547.00 in Community Pollution Prevention Grant funding to five municipalities for projects focusing on climate action planning. Another round of these grants is planned which will be available to local and tribal governments, health departments, municipalities, and regional planning agencies to aid in the development of local climate action plans. The goal of this grant program is to increase cooperation between citizens and local governments, and to foster the development of local models and approaches that will effectively address climate challenges in Michigan.

The DNRE will continue to pursue other cooperative opportunities and funding sources that have environmental justice benefits.

Chapter 6. Tribal Consultation

Introduction

“Tribal consultation” is the cornerstone of a fair environmental justice policy toward tribes. Like local units of government, tribal governments are well-positioned to identify environmental justice areas within their communities and to identify the particular issues and concerns associated with these areas.

Executive Directive No. 2007-23 calls for the development of an environmental justice plan which includes a means to identify, address, and prevent discriminatory effects and disparate impacts of environmental decisions while assuring meaningful involvement of individuals from affected communities. Tribes are among the potentially affected communities in Michigan and this environmental justice plan provides a mechanism of tribal consultation in accordance with federal and state policies toward tribes. Like states, tribes are sovereign governments recognized by the Constitution of the United States of America, decisions of the United States Supreme Court, treaty rights and acts of Congress. Tribal governments exercise authority and jurisdiction over their lands and enrolled members. The development, implementation, and enforcement of environmental laws, regulations and policies by the state should include tribal consultation on environmental justice matters when they may impact tribal members' health and environmental well-being or have "tribal implications," which is an express reference to Indians, Indian tribes, bands or groups, or Indian organizations, or a direct effect on their collective or individual treaty rights, natural resources or environmental interests, economic or commercial interests, civil jurisdiction, or other rights or benefits secured under Michigan or federal law by virtue of their status as Indians (MI Executive Directive 2004-5).

Tribal consultation is important because tools for identifying potential environmental justice areas of concern, like EJSEAT as described in Chapter 2, are not always appropriate in tribal jurisdictions. Further, tribes often work directly with federal agencies so some tribal environmental justice concerns are not well-known by state agencies. Additionally, regional concerns, such as mercury deposition in Michigan waters, tend to adversely impact tribal communities more so than the general populace due to subsistence living practices of tribes and the exercise of treaty-reserved hunting, fishing, and gathering rights on ceded lands and waters. Finally, sometimes tribes perceive environmental justice concerns as having to do with matters not usually considered in the cases of other communities. Cultural resources and sacred places are important examples of this. Practicing effective tribal consultation can make these concerns known to state agencies.

POLICIES

Federal Tribal Consultation

Federal agencies have been mandated to include tribal consultation in their decision-making procedures. On November 5, 2009, the executive branch of the Federal government reaffirmed the commitment to tribal consultation as established in Executive Order 13175 in a "Memorandum for the Heads of Executive Departments and Agencies: Tribal Consultation."

State of Michigan Policies

The state of Michigan has established a policy on tribal consultation. Executive Directive No. 2001-2, subsequently rescinded and replaced with Executive Directive 2004-5, "Policy Statement on State-Tribal Affairs" affirmed the importance of state-tribal cooperation, and called for a State-Tribal Accord defining the relationship between the state of Michigan and the federally recognized tribes. The October 28, 2002 Government-to-Government Accord between the state of Michigan and the Federally Recognized Indian Tribes in the state of Michigan states the following as its Guiding Principle 3 for acknowledgement by the state of Michigan:

Actions undertaken by the state of Michigan in relation to the tribes must be implemented in an informed and sensitive manner, respectful of tribal sovereignty and the traditional and cultural values, beliefs and principles of tribal members and governments.

The fifth part of the accord requires Consultation and Consideration of the Interests of Other Governments.

For the purposes of this accord, "consultation" is defined as a process of government-to-government dialogue between the state and tribes regarding actions or proposed actions that significantly affect or may significantly affect the governmental interests of the other. Consultation includes (1) timely notification of the action or proposed action, (2) informing the other government of the potential impact of the action or proposed action on the interests of that government, (3) the opportunity for the other government to provide input and recommendations on proposed actions to the governmental officials responsible for the final decision, and (4) the right to be advised of the rejections (and basis for any such rejections of recommendations on proposed actions by the governmental officials responsible for the final decision.)

Examples of other state-tribal natural resource policies are the two Intergovernmental Accords between the Federally Recognized Indian Tribes in Michigan and the Governor of the state of Michigan Concerning Protection of Shared Water Resources (May 12, 2004) and to Address the Crucial Issue of Climate Change (June 11, 2009).

IMPLEMENTATION

In accordance with the state's affirmation to the standard of tribal consultation in any matters with tribal implications, this environmental justice plan also includes a mechanism for tribal consultation when environmental justice concerns have tribal implications or the potential to impact the health and environmental well-being of communities of tribal members.

The interdepartmental working group (IWG) will implement the following general guidelines in order to establish this mechanism for tribal consultation:

1. All federally recognized tribes will be notified of the formation of the IWG and the Michigan environmental justice plan.
2. All tribes will receive notification of the meetings of the IWG, the availability of meeting minutes, and opportunities to participate.
3. Issues involving threats to Native American cultural resources and sacred sites will be considered by the IWG.
4. Issues considered by the IWG with tribal implications or that impact the health and environmental well-being of communities of tribal members, will include measures for consultation with the affected tribal government(s).

The DNRE and other state agencies will notify the respective federally recognized tribe when projects and activities will have impacts in tribal jurisdictions. These notifications will occur in a manner similar to local governments that will allow the tribes to properly and adequately respond to the state agency responsible for the projects and activities.

TRIBAL CONTACT INFORMATION

There are 12 federally recognized tribes in Michigan. Their names and contact information are listed below.

Bay Mills Indian Community of Michigan
12140 W. Lakeshore Drive
Brimley, MI 49715
Voice: 906-248-3241
Fax: 906-248-3283

Grand Traverse Band of Ottawa & Chippewa Indians of Michigan
2605 N.W. Bayshore Drive
Suttons Bay, MI 49682
Voice: 231-534-7750
Fax: 231-534-7568

Hannahville Indian Community of Michigan
N14911 Hannahville, B1 Road
Wilson, MI 49896
Voice: 906-466- 2932
Fax: 906-466-2933

Nottawaseppi Huron Band of the Potawatomi
2221 1 ½ Mile Road
Fulton, MI 49052
Voice: 269-729-5151
Fax: 269-729-5920

Keweenaw Bay Indian Community
16429 Beartown Road
Baraga, MI 49908
Voice: 906-353-6623
Fax: 906-353-7540

Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan
P.O. Box 249
Watersmeet, MI 49969
Voice: 906-358-4577
Fax: 906-358-4785

Little River Band of Ottawa Indians
375 River Street
Manistee, MI 49660
Voice: 231-723-8288
Fax: 231 -723- 8020

Little Traverse Bay Bands of Odawa Indians
7500 Odawa Circle Harbor Springs, MI 49740
Voice: 231- 242-1400
Fax: 231-242-1412

The Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians
PO Box 218
Dorr, MI 49323
Voice: 616-681-8830
Fax: 616-681-9520

Pokagon Band of Potawatomi Indians
58620 Sink Road, P.O. Box 180
Dowagiac, MI 49047
Voice: 269-782-8998

Saginaw Chippewa Indian Tribe of Michigan
7070 East Broadway
Mt. Pleasant, MI 48858
Voice: 989-772-5700
Fax: 989-772-3508

Sault Ste. Marie Tribe of Chippewa
523 Ashmun St.
Sault Ste. Marie, MI 49783
Voice: 906-635-6050
Fax: 906-632-4959

Chapter 7. Role of Local Units of Government

INTRODUCTION

Executive Directive No. 2007-23 calls for the development of an environmental justice plan which includes a means to identify, address, and prevent discriminatory effects and disparate impacts of environmental decisions while assuring meaningful involvement of individuals from affected communities. Local units of government (LUGs) can play a valuable role in fostering communication to help meet these objectives of the executive directive.

Local governments routinely interact with communities and state departments, making them a potential vehicle for residents to articulate their concerns involving environmental justice issues to state decision-makers. Local governments can assist state agencies by early identification of environmental justice issues, which in turn will allow state decision-makers to deploy environmental justice resources more effectively.

PARTICIPATION BY LOCAL UNITS OF GOVERNMENT

LUGs are well positioned to identify environmental justice areas within the community and to identify the particular concerns associated with these areas. Local and state units of governments have communication mechanisms currently in place which, when utilized effectively, would allow for collaborative information sharing early in the public participation process.

LUGs can play an important role within an environmental justice framework in two key areas: (1) identifying potential environmental justice areas and issues, and (2) acting as a liaison between state officials and community members.

Identifying Potential Environmental Justice Areas and Issues

LUGs are often the repository of information considered vital when determining the potential for development such as documents related to land use, health, safety, and transportation. Local areas and issues of concern are often pre-identified allowing the LUG to carefully consider the proposed project and to seek the required resources in order to address those concerns. In most cases, areas with low-income and minority populations and environmental concerns are well-known to LUGs.

Liaison between State Officials and Community Members

In many cases, LUGs have specific departments or agencies that correspond directly to state departments or agencies. Many of the LUG agencies, such as health and environmental, are able to describe local concerns to state agencies using common technical language which helps to clarify local issues. Strengthening the partnership between LUGs and state agencies will enhance the ability of both partners to address environmental justice concerns.

LUGs should be encouraged to:

1. Assist individuals and community groups to receive resources (i.e., grant funding, technical assistance, interpretation and/or educational information) to identify and address their unique environmental justice issues.
2. Participate with state agencies on outreach projects in their respective communities including assisting state agencies in distributing public notices to ensure that notifications reach the proper audience.
3. Ensure compliance with local environmental regulations and building codes.
4. Conduct public outreach for projects that require local approvals in potential environmental justice areas.

Conclusion

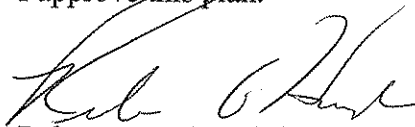
This *Michigan Environmental Justice Plan* is the result of the significant contributions of the Environmental Justice Working Group and Resource Group members, who have invested much time and effort for over two years to bring this project to completion. The Department wishes to express its sincere thanks for these efforts to all of these individuals.

Implementing this plan will advance the cause of environmental justice as well as improve the quality of life for the people of Michigan. Emphasis has been placed on prioritizing Department activities that produce positive results in areas where these results are most beneficial. The Department will leverage its resources by cooperating with other agencies and programs that address environmental justice. Care has been taken in the development of this plan to create no burdens for businesses or obstacles for economic growth.

While this plan is not prescriptive for all state departments, it does provide guidance for other departments to develop environmental justice plans appropriate for their programs. It is hoped that this plan will serve as a catalyst for other departments to develop specific environmental justice plans.

Ultimately, it is hoped that this plan will contribute to realizing a broader vision for this state; a state where residents enjoy equal benefits from our natural resources and environment, where businesses can prosper, and where we all want to live, work and play.

I approve this plan.


Rebecca A. Humphries
Director

12/17/10
Date Approved

Attachments

Attachment 1: Executive Directive No. 2007-23

Attachment 2: Environmental Justice Recommendations, October 12, 1999

Attachment 3: Model Community Outreach Plan, January 24, 2001

Attachment 4: Recommendations for an Environmental Justice Policy for Michigan, January 2006

Attachment 5: Resource Group List

Attachment 6: EJ SEAT Map of Michigan

Attachment 7: DEQ/MDA/DNR 2008/2009 Leadership Academy: Identifying and Testing Effective Public Participation Techniques Action Learning Project Team Report

Attachment 8: DEQ/DNR 2009/2010 Leadership Academy: Tools of Engagement - Encouraging, Considering, and Responding to Public Comment in the New DNRE

Attachment 9: DEQ/DNR 2009/2010 Leadership Academy: Supplement to Tools of Engagement - Encouraging, Considering, and Responding to Public Comment in the New DNRE

All these attachments can be viewed at:

www.michigan.gov/dnreenvironmentaljustice